SUPREME COURT OF NEW JERSEY
C-1277 September Term 1997
45,150

HIGHLAND LAKES COUNTRY CLUB
& COMMUNITY ASSOCIATION,
Plaintiff-Respondent,

V.

ON PETITION FOR
CERTIFICATION

ANNE, A/K/A AINE M. GLAVEY,
Defendant-Petitioner.

---

To the Appellate Division, Superior Court:

A petition for certification of the judgment in A-6812-95 having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied, with cost.

WITNESS, the Honorable Alan B. Handler, Presiding Justice, at Trenton, this 30th day of June, 1998.

s/ Steven Townsend
CLERK OF THE SUPREME COURT

# APPENDIX C

ORDER ON MOTION

HIGHLAND LAKES COUNTRY CLUB &
COMMUNITY ASSOCIATION
VS
ANNE A/K/A/ AINE M. GLAVEY

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-006812-95T3
MOTION NO. M-000875-97
BEFORE PART: R
JUDGE (S): LONG WECKER

MOTION FILED: OCTOBER 08, 1997 By: AINE M. GLAVEY
ANSWER (S) FILED: OCTOBER 16, 1997 By: HIGHLAND LAKES COUNTRY CLUB

SUBMITTED TO COURT: NOVEMBER 05, 1997

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THIS COURT, IT IS ON THIS _____ DAY OF _____, 199_, HEREBY ORDERED AS FOLLOWS:

MOTION BY APPELLANT
_TO FILE APPELLANT BRIEF NUNC PRO TUNC

| | GRANTED | DENIED | OTHER |
|---|---|---|---|
| | ( ) | (x ) | ( ) |

SUPPLEMENTAL :

FOR THE COURT:
s/_____
VIRGINIA LONG P.J.A.D.

# APPENDIX D

If this a money judgment it will not be automatically recorded as a statewide lien. To do so, forward it directly to the Clerk of the Superior Court in Trenton along with a $25.00 fee.

SOL ROSENBERG, PA
A Professional Corporation
Attorney for Plaintiff
366 Clifton Avenue
Post Office Box 1325
Clifton, New Jersey 07015
Tel. (201) 340-2800

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-SUSSEX COUNTY
DOCKET NO. W23317-89/J 096248-89

Highland Lakes Country Club
and Community Association
Plaintiff

Civil Action
AMENDED FINAL JUDGMENT

-vs-

Anne aka Aine M. Glavey
Defendant

The above matter having been opened to the court by Sol Rosenberg, attorney for plaintiff, on plaintiff's application to amend the amount due on the Judgment entered in its favor on April 23, 1993 by adding late payment charges and attorney's fees thereon; and the Court having read and considered the certification of plaintiff's attorney; and no objection having been filed with the court; and for good cause shown; and in keeping with the penultimate paragraph of the

court's Opinion of March 21, 1996;

It is on this - day of , 1996, ORDERED that the Judgment entered on April 23, 1993 in the amount of

1. Additional late payment charges for the period May 1993 through April 1996 on the amounts already included in the Judgment.....4267.08
2. Attorney's fees on these additional late payment charges.....1422.64
3. Dues and assessments for the period 1994 through 1996.....4353.04
4. Late payment charges on the 1994 through 1996 dues and assessments through April 1996.....824.74
5. Attorney's fees on the 1994 through 1996 dues and assessments and the late payment charges thereon through April 1996.....1726.27

IT IS FURTHER ORDERED that the Final Judgment heretofore entered on April 23, 1993 in the total amount of $14, 619.64 be and the same is hereby amended to the extent that Judgment is now entered in favor of the plaintiff, Highland Lakes Country Club and Community Association, and against the defendant, Anne aka Aine M. Glavey, in the sum of $27,213.41, plus reasonable attorney's fees for legal services rendered by the attorney for the plaintiff since April 23, 1993 in the amount of $7525 for a total Judgment of $34, 738.41.

IT IS FURTHER ORDERED, that a copy of this Order

be served upon the attorney for the defendant within 7 days of the receipt of this Order by the plaintiff's attorney.

s/_____
Lorraine C. Parker, J.S.C

PAPERS CONSIDERED:

Notice of Motion
Movant's Affidavits
Movant's Brief
Answering Affidavits
Answering Brief
Cross Motion
Movant's Reply
Other_____

This amended judgment is submitted in accordance with the courts opinion of 3/21/1996. Plaintiff has submitted Certifications in support of the amended judgment and no opinion from defendant.

# APPENDIX E

## ARTICLE XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sections 2, 3 and 4 are omitted.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

July 19, 1989

Mr. Sol Rosenberg, Esq.
366 Clifton Avenue
P.O. Box 1325
Clifton, New Jersey 07015-9975

Re: Glavey, Anne M.
Our Number: 6585 Your Number: 4112

Dear Mr. Rosenberg:

As requested, I am enclosing an original and two copies of this account statement. These amounts are inclusive of late payment charges due the club through August 31, 1989.

| Member Information | Block | Lot |
|---|---|---|
| Glavey, Anne M.<br>R.R.3 Box 837<br>Highland Lakes, New Jersey 07422 | 200.12 | 05 |

SUMMARY OF ACCOUNT BALANCES:

| | |
|---|---|
| INITIATION FEE | 0.00 |
| TOTAL OUTSTANDING DUES | 2770.00 |
| LATE PAYMENT CHARGES | 969.60 |
| FAIR SHARE BALANCE | 664.70 |
| FAIR SHARE LATE CHARGE BALANCE | 279.79 |
| TOTAL AMOUNTS DUE | $4,684.09 |

BREAKDOWN OF UNPAID ANNUAL DUES:

| | | | | | |
|---|---|---|---|---|---|
| 1993 | 0.00 | 1984 | 425.00 | 1985 | 450.00 |

1986 450.00 1987 470.00 1988 480.00
1989 495.00
TOTAL OUTSTANDING DUES: $2,770.00

In the event payment(s) are received after August 31, 1989, this account is subject to additional late payment charges on unpaid initiation fee(s) and annual dues of $27.70 per month, and late payment charges on unpaid fair share of $6.65 per month.

Please contact me should you have any questions.

Sincerely,

s/_____
Jack McLaughlin
Club Manager

SOL ROSENBERG, PA
A Professional Corporation
Attorney for Plaintiff
366 Clifton Avenue
PO Box 1325
Clifton, NJ 07015
Tel: (201) 340-2800

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SUSSEX COUNTY
DOCKET NO. W. 23317-89 & J 096248-89

Highland Lakes Country Club &
Community Association
Plaintiff

-vs-

Civil Action
JUDGEMENT

Anne aka Aine M. Glavey
Defendant

The above matter having come before the Court for trial without jury on April 12, 1993 and April 13, 1993, Sol Rosenberg, Attorney appearing for plaintiff and defendant, Anne aka Aine M. Glavey appearing pro se, and the court having considered the evidence and testimony;

It is on this 23rd day of April, 1993, ORDERED that judgment be entered in favor of the plaintiff, Highland Lakes Country Club and Community Association, and against the defendant, Anne aka Aine M. Glavey, in the amount of
$12, 119.32, plus reasonable attorney's fees in the amount of $2,500.00, or a total judgment of $14,619.32, together with

costs to be taxed.

s/
Rocco L.D'Ambrosio, J.S.C

- ☐ PAPERS RECEIVED
- ☐ NOTICE OF MOTION
- ☐ MOVANTS AFFIDAVITS
- ☐ MOVANT'S BRIEF
- ☐ ANSWERING BRIEFS
- ☐ CROSS-MOTION
- ☐ CROSS-MOTION
- ☐ MOVANT'S REPLY
- ☐ OTHER

SOL ROSENBERG
A Professional Corporation
Attorney for Plaintiff
366 Clifton Avenue
P.O. Box 1325
Clifton, N.J. 07015
Tel: (201) 340-2800

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION -SUSSEX COUNTY
DOCKET NO. J 46491-93 & W 23317 8

Civil Action

ORDER FOR STAY OF JUDGMENT
DIRECTING DEFENDANT TO FILE
SUPERSEDEAS BOND OR CASH
DEPOSIT WITH CLERK

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Highland Lakes Country Club &
Community Association
Plaintiff

-vs-

Anne aka Aine M.Glavey
Defendant

---

The above matter being opened to the Court by defendant, Anne aka Aine M. Glavey, on defendant's motion to stay execution of a judgement entered on April 23, 1993 and for good cause shown;
It is on this 24th of August, 1993 ORDERED that the judgment

be stayed provided defendant, within 10 days of this order, either post a cash deposit of supersedeas bond with the Clerk of this Court in the amount of $14, 619.32 togther with costs of $150.68 together with interest of $1079.91 through the calendar year 1994 totaling $15,848.91. Said bond should be conditioned for the satisfaction of the judgment in full together with interest and trial costs and additional cost and damages as the Appellate Court may adjudge in form to approved by the court.

s/
Gerald B. Hanifan, J.S.C.

BEST AVAILABLE COPY

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-5996-92T2

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HIGHLAND LAKES COUNTRY CLUB
AND COMMUNITY ASSOCIATION,
Plaintiff-Respondent,

V.

AINE GLAVEY a.k.a.
ANNE M. GLAVEY,
Defendant-Appellant.

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Submitted: January 9, 1995 - Decided: March 30, 1995

Before Judges Petrella, Havey and Cuff.

On appeal from the Superior Court of New Jersey, Law Division, Sussex County.

McGovern and Roseman, attorneys for appellant (William J. McGovern, III, on the brief).

Joseph J. Vanecek, attorney for respondent (Mr. Vanecek, on the brief).

PER CURIAM

This is an appeal from a judgment for unpaid dues and assessments entered after a non-jury trial against the owner of improved property in a lake community. We affirm in part and reverse in part.

Plaintiff Highland Lakes Country Club and Community Association (Association) is a private, single-family residential community in Vernon Township, Sussex County. Development of this community began in 1936. The association has 2,200 members with a private road network of thirty-two miles. Located within the confines of the community are five lakes, seven beaches and various other recreational facilities. As of 1990, there were 1,902 homes in the community; 273 members owned vacant lots.

Defendant Aine Glavey purchased lots four, five and six on Grandview Drive, Highland Lakes on March 14, 1977. A substantial house was constructed on these lots by defendant. She had actual knowledge of the covenants to join the association and abide by the by-laws of the association.

Article III of the by-laws adopted by the Association governs membership in the Association. Section IX of Article III provides that new owners shall automatically become members of the Association on the date they acquire title to the property. Section XI of the Article III provides that the Association shall have a lien on the real property in Highland Lakes of a member foe all of the member's unpaid dues, assessments and initiation fees, together with late payment charges and reasonable attorney's fees for the collection of such dues.[1] This section also provides that the Association may seek

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1 The Association must, however, obtain a judgment against the property owner before imposing a lien on the property. *Walker Briarwood Condominium Ass'n*, 274 *N.J. Super.* 422, 428 (App. Div. 1994)

to recover a money judgment against the property owner for the unpaid fees, dues and assessments. Finally, Article VI, Section I provides that the Association shall have the authority to assess fees to cover the operating expenses of the club.

Defendant asserts that she should not be responsible for the payment or the dues because she has never used the Association's facilities due to their poor condition and because the road in front of her property is in poor condition. She further alleges that she received no notice from the Association regarding litigation in the early 1980's from which the fair share assessment emanated; therefore, she argues that she should not be bound by its terms.

The case was tried over two days by the Hon. Rocco L. D'Ambrosio, J.S.C. Defendant appeared *pro se*. Finding that defendant had actual knowledge of the obligation to join the Association and to pay dues, that defendant did not challenge the enforceability of the covenants, and that she had no right to withhold dues and other assessements due to disatisfaction with the condition of commons elements, Judge D'Ambrosio entered a judgment in the amount of $12,119.32 exclusive of resonable attorney's fees against the defendant. This sum is composed of cabin dues for the lot on which defendant's house is situated, lot dues for the other two lots purchased by defendant and contiguous to the lot on which the house is situated, dam rehabilitation assessment imposed on each lot, past dues, late payment charges, fair share payments, late payment charges on the fair share payments, and various miscellaneous charges. After submission of a Certification of Services, Judge D'Ambrosio awarded $2,500 in attorney's fees.

On appeal, defendant argues that the trial judge's

findings of fact are not supported by substantial credible evidence. She further contends that the trial court erred in accepting the Association's calculation of dues and assessments since the Association charged her for three lots rather than one lot. Thus, all fees and assessments have been trebled. She argues that the evidence produced by the Association does not support its methodology and is contrary to the by-laws of the Association. She further contests the award of finance charges on the fair share road maintenance charge, compound interest in the form of finance charges, attorneys fees, taxed costs and various other miscellaneous charges sought by the Association.

After a thorough review of the record, we are satisfied that the trial judge's findings of fact regarding defendant's liability for dues, fees and assessments imposed by the Association are supported by substantial credible evidence in the record. *Rova Farms Resort v. Investor Ins. Co.*, 65 N.J. 474, 484 (1974). Dues or assessments for maintenance charges of roads and recreational facilities are the financial life-blood of a community association. *See Park Place East Condominium Ass'n v. Hovbilt, Inc.*, 279 *N.J. Super.* 319, 323 (Ch. Div. 1994). Accordingly, there is no authority to allow individual members to resort to self-help to withhold proper charges due to their dissatisfaction with the state of maintenance or the presence or absence of facilities is irrelevant to the obligation to pay when the community is organized on an association scheme for provision of necessary services as well as amenities. *See Rivers Edge Condominium Ass'n,* 568 *A*2d 261 (Pa. Super. 1990); *Abbey Park Homeowners Ass'n v. Bowen*, 508 *So.*2d. 554 (Fl. App.1987). *See also, Lincolnshire Civic Ass'n, Inc. v. Beach*, 364 *N.Y.S.*2d 248 (App. Div. 1975) (resignation form association a nullity when affirmation obligation to pay dues for support of common elements touches and concerns the land).

We are, however, troubled by the methodology employed by the Association in calculating its annual bills to

property owners. The trial judge obviously believed that defendant's argument concerning the impropriety of assessing her based on three lots concerned only the dam assessment. He recognized the issue but dismissed it due to and that she clearly voiced her objection to this methodology.

Defendant acquired three contiguous lots in 1977. Based on the description in the deeds, the property is a large, irregularly shaped parcel located on a curve of Grandview the *de minimis* charges associated with the dam assessment. Our review of the record, however, convinces us that defendant clearly established that the Association had charged all dues and assessments per each lot owned Avenue which according to the record also slopes in the rear. On these lots she has constructed a substantial house. Jack McLaughlin, the Association Manager, testified that the annual dues and assessments were charge for each lot owned by the defendant. Mr. McLaughlin stated that he or a member of his staff compares its record in this regard to the records of Vernon Township, and if Vernon Township issues three separate tax bills for three lots in Highland Lakes, the Association issues and charges three dues and assessment bills.[2] On the other hand, if a member owns more than one lot but Vernon Township issues only one tax bill, then the Association issues only one dues and assessment bill.

We note that the by-laws of the Association establish a dues and assessment structure which creates two catetgories: members owning residences and members owning lots. The by-laws provide that within each category the members shall be assessed equally. Article VI, Section I of the by-laws provide:

> In order that the objectives of this Club may be fulfilled and that the expense for maintaining the

---

2 *Cf. Loechner v. Campoli*, 49 *N.J.* 504 (1967) (contiguous lots in common ownership create a single parcel or tract of land).

> Club shall be equitably distributed, all Active Members owning residences at Highland Lakes shall be assessed equally, on an annual basis, for each residence, and all Active Members owning lots shall be assessed equally, on an annual basis, for each lot; however, when in the judgment of the Voting Board equal assessment would impose a hardship on a significant number of members, an exception may be made by a vote of two-thirds (2/3) of all of the members of the Voting Board, in which event the assessment against such members may be made on other than an equal basis. The annual assessment residences and lots shall be established by the Voting Board.

Based on the by-laws, defendant has presented a defense of unequal assessment unless the Association has enacted a valid exception to the by-laws. The trial judge, however, focused only on the two dam assessments. Therefore, it is necessary that the judgment as to damages be vacated and the matter remanded for further findings of fact and supplemental testimony, if necessary, concerning the validity of the methodology employed by the Association.

Defendant also challenges the reasonableness of the $2,500 attorney's fee award. Judge D'Ambrosio did not make any findings of fact at the time he entered the 1993 order which imposed the conclusion of the trial, he found that the Association had established that there was a binding agreement which allowed the award of reasonable attorney's fees if collection efforts were required. [3] He further noted that the

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3. The Association sought to add the 1/3 contingent fee to the award apparently on the assumption that is was per se reasonable. The trial judge properly rejected this approach and independently reviewed the

Association's attorney had filed a motion for summary judgment, which was later vacated, filed a motion to amend its damage claim, appeared for two calendar calls and finally attended a two-day trial. The trial judge opined at the time of his decision, even without the benefit of a certification of services, that a $2000 fee was in order, Upon the submission of a certification of services, the trial judge awarded $2,500. This award represents an appropriate exercise of the trial judge's discretion.

The payment by the Association of a contingent fee to its attorney should not defeat its claim for attorney's fees from its member. The Association's income stream for the maintenance of common elements should not be reduced by the payment of reasonable attorney's fees incurred in the process of collection of the charges. *See Park Place, supra,* 279 *N.J. Super.* at 323-24.

Accordingly, we affirm that portion of the judgment which establishes defendant's liability for dues, assessments, late charges and reasonable attorney's fees. However, we reverse the judgment as to damages and remand for further findings and testimony, if necessary, concerning the methodology used to charge dues and assessments to defendant as a homeowner in the Highland Lakes community.

Affirmed in part; reversed in part and remanded for further proceeding consistent with this opinion. We do not retain jurisdiction.

s/ Emilie R. Cox
Clerk

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certification of services. Such an approach recognized that the time and effort involved in the collection of unpaid charges often has no relation to the amount due. The member has only agreed to pay reasonable attorney's fees; the member has not necessary subscribed to the business judgment of the Association to pay its retained attorney on a contingent fee basis.

SOL ROSENBERG, PA
A Professional Corporation
Attorney for Plaintiff
366 Clifton Avenue
Post Office Box 1325
Clifton, New Jersey 07015
Tel: (201) 340-2800

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION –SUSSEX COUNTY
DOCKET NO. W 23317-89/J 096248-89

Highland Lakes Country Club
and Community Association,

Plaintiff

-vs-

Anne aka Aine M. Glavey.

Defendant.

Civil Action
ORDER FOR FINAL
JUDGMENT

The above matter having been opened to the court by Sol Rosenberg, attorney for plaintiff, on plaintiff's application to amend the amount due on the judgment to include late charges and attorneys fees on the original judgment amounts and dues, assessments, for the years 1994, 1995, and 1996 and late payment charges thereon and attorneys fees, the court having read and considered the certification of plaintiff, no objection having been filed with the court, for good cause shown and in keeping with the penultimate paragraph of the court's Opinion of March 21, 1996;

It is on this day of , 1996
ORDERED that the judgment entered on April 23, 1993 in the amount of $12, 119.32 plus attorney's fees of $2,500.00 or a total of $14,619.64 is hereby amended to include the following:

| | |
|---|---|
| Late Payment Charges from May 1993 to April 1996 on the periods included in the Judgment | $4267.08 |
| Attorney's Fees on additional late payment charges | $1422.64 |
| Dues and Assessments (1994 through 1996) | $4353.04 |
| Late payment charges thereon through April 1996 | $ 824.74 |
| Attorney's Fees on period of 1994 through1996 | $1726.27 |

THEREFORE, the Final Judgment in the above matter is $21,564.18 together with reasonable attorney's fees in the amount of $5,648.91 or a total of $27,213.09 together with cost and interest.

IT IS FURTHER ORDERED, that a copy of this Order be served upon counsel for defendant within 7 days of receipt of this Order.

_____
Lorraine C. Parker, J.S.C.

PAPERS CONSIDERED:
Notice of Motion
Movant's Affidavits
Movant's Brief
Answering Affidavits
Answering Brief

Cross Motion
Movant's Reply
Other_____

April 15, 1996

Hon. Lorraine C. Parker, JSC
Court House, Sussex County
Newton, New Jersey

Re: Highland Lakes CC & Comm Assn
vs. Anne aka Aine M Glavey
My File #D 4112

Dear Judge Parker:

My office had previously submitted a Motion to Amend the Judgment returnable on May 10, 1996. Along with the Motion was a proposed form of Order.

I wish to make a few changes and correction to the wording in the Order and enclose herewith an original and two copies of the corrected Order.

Of course, a copy of this is being sent to the counsel for the defendant. I apologize for any inconvenience this may have caused.

Very truly yours,
s/_____
Sol Rosenberg

SR/cmk
Enc

cc: William J. McGovern, III
McGovern & Roseman, Esqs.
115 Spring St Box 8
Newton, NJ 07860

SOL ROSENBERG, PA
A Professional Corporation
Attorney for Plaintiff
366 Clifton Avenue, P.O. Box 1325
Clifton, New Jersey 07015
Tel. (201) 340-2800

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SUSSEX COUNTY
DOCKET NO. W 22317-89/J 096248-89

HIGHLAND LAKES COUNTRY CLUB AND COMMUNITY ASSOCIATION,

Plaintiff,

vs.

ANNE, aka AINE M. GLAVEY,

Defendant.

JUDGMENT AFTER TRIAL ON REMAND FROM THE APPELLATE DIVISION

This matter having been opened to the Court by Sol Rosenberg, Esq., the attorney for the Plaintiff, in the presence of McGovern and Roseman, Esqs., attorneys for the Defendant, William J. McGovern, III, appearing; and a bench trial having taken place on January 17, 1996 before the Court on remand from the Appellate Division "for further findings of fact and supplemental testimony, if necessary, concerning the validity of the methodology employed by the Association" in charging dues and assessments to the Defendant (App. Div. Slip Op. pp 6 and 8); and the Court having heard and considered the testimony of the parties; and the Court having read and considered the written summations of the attorneys for the parties; and the Court having found and determined that the

methodology employed by the Plaintiff Association is, indeed, valid and the Judgment previously entered in the matter by the Hon. Rocco L. D'Ambrosio, J.S.C., on April 23, 1993 be reinstated and amended to include dues and assessments and late payment charges which have accrued since the date of said Judgment, all as is more particularly set forth in a written Opinion of the Court rendered and filed in the matter on March 21, 1996; and for good cause shown;

It is on this day of , 1996

ORDERED, that the aforesaid Judgment which was heretofore entered in favor of the Plaintiff and against the Defendant in the amount of $14,619.64, be and the same is hereby reinstated with interest form April 23, 1993 at the annual rates established pursuant to Rule 4:42-11, together with costs to be taxed; and it is

FURTHER ORDERED, that Judgment be and same is hereby entered in favor of the Plaintiff and against the Defendant, awarding counsel fees to the attorney for the Plaintiff in the amount of $....., which amount the Court deems reasonable based upon the Certification of Services which has been submitted to the Court by said attorney; and it is

FURTHER ORDERED, that the Plaintiff be and it is hereby given leave to move before this Court to amend the aforesaid Judgment entered in its favor on April 23, 1993 to add the amounts thereto which have become due and owing to it on account of dues and assessments and the late payment charges which have accrued since said date; and it is

FURTHER ORDERED, that a copy of this Judgment be served upon the attorney for the Defendant within seven (7) days of the date hereof.

s/_____

LORRAINE C. PARKER, J.S.C.

ORDER PREPARED BY THE COURT

HIGHLAND LAKES COUNTRY CLUB
AND COMMUNITY ASSOCIATION,

Plaintiff,

v.

AINE (ANNE) GLAVEY,

Defendant.

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SUSSEX COUNTY

DOCKET NO. W-22317-89

CIVIL ACTION

ORDER

TO: William J. McGovern, III, Esq.
McGovern & Roseman
115 Spring Street
P.O. Box 8,
Newton, New Jersey 07860

Sol Rosenberg, Esq.
P.O. Box 1325
Clifton, New Jersey 07015

This matter having been opened by the Court on its own motion, after receipt of correspondence and forms of order from

counsel for both parties ,

IT IS on this 17, day of June, 1996;

ORDERED that defendant, Anne Glavey, and her counsel appear before this Court on Friday, July 12, 1996 at 9:00 a.m. to show cause why she should not be held in contempt of court for failure to disclose the pending bankruptcy during trial after remand from the Appellate Division in this matter; and why this Court should vacate the judgment entered after trial on the grounds of the pending bankruptcy. Counsel for plaintiff shall also appear.

s/
LORRAINE C. PARKER, J.S.C.

August 30, 1996

Hon Lorraine C. Parker, JSC
Sussex County Judicial Complex
43-37 High Street
Newton, NJ 07860

Re: Highland Lakes CC & Comm Assn
vs. Anne aka Aine M. Glavey
Docket #W 23317-89/J 096248-89
My File #D 4112

Dear Judge Parker:

As you may recall, the above matter was stayed as a result of the defendant's Chapter 13, Bankruptcy.

I enclose herewith, for the court's examination, a copy of the Order of the Honorable Novalyn L. Winfield, U.S. Bankruptcy Judge, dated August 27, 1996, granting relief to my client, Highland Lakes Country Club and Community Association, from the automatic stay of the defendant's Chapter 13 Bankruptcy.

The Order further provides in addition to lifting the stay, the permission to allow the plaintiff to proceed to implement the judgment entered by Your Honor on May 31, 1996 as well as to collect monies which were deposited with the Clerk of the Superior Court pending the appeal in the original trial of this matter.

I also enclose herewith a copy of the Motion dated April 9, 1996, the Order which was submitted in keeping with the Motion, my covering letter and a copy of the Court's Order of

May 31, 1996.

These matters were held in abeyance as a result of the bankruptcy, but in view of the relief from the stay per Judge Winfield's order, I request the Court to please expeditiously sigh the enclosed Order and return the same to me in the enclosed postage paid self addressed envelope.

Respectfully yours,

s/_____
Sol Rosenberg

SR/cmk
Enc

JOHN V. MCDERMOTT, JR.
ROUTE 515. P. O. Box 859
VERNON, NEW JERSEY 07462
(201) 764-6313
ATTORNEY FOR Defendant-Appellant

---

*Plaintiff* - Respondent
HIGHLAND LAKES COUNTRY CLUB
and COMMUNITY ASSOCIATION,

*vs*

*Defendant* - Appellant
ANNE a/k/a AINE M. GLAVEY

---

ON PETITION FOR CERTIFICATION TO THE
SUPREME COURT OF NEW JERSEY

DOCKET NO. 45, 150
APPELLATE DIVISION DOCKET NO. A-006812-95T3

*CIVIL ACTION*

# CERTIFICATION OF WILLIAM J. McGOVERN, III, ESQ. IN SUPPORT OF PETITION FOR CERTIFICATION OF DEFENDANT-APPELLANT

WILLIAM J. McGOVERN, III, ESQ., hereby certifies as follows:

1. I was the attorney for the defendant-appellant on the initial appeal to the Appellate Division which resulted in the decision entered March 30, 1995 that confirmed in part and reversed in part the initial trial court decision.

2. I also represented the defendant-appellant on the remand hearing before Honorable Lorraine C. Parker on January 17, 1996 and thereafter until October 1996 when the

defendant-appellant indicated that she could no longer pay for my services and began to represent herself again.

3. I submit this certification to point out that the Amended Final Judgment entered by the trial court on September 12, 1996 was entered without the filing of a formal Notice of Motion by the plaintiff and without the opportunity for me, as attorney for the defendant-appellant, to object to the Certification that was submitted to the Court without the filing of a Notice of Motion pursuant to the Rules of Court.

4. In the written opinion entered by the trial court on March 21, 1996, Judge Parker had indicated that Judgment would be entered in the amount of $14,619.64. Judge Parker further provided that in the even additional fees accrued since the date of the hearing (January 17, 1996) that plaintiff "may make application to amend the judgment."

5. As a result of that direction, plaintiff filed a notice of motion on or about April 9, 1996 to amend the Judgment. That notice of motion contained a certification by a representative of the plaintiff, which certification sought the entry of a judgment in the amount of $27,418.97 which almost doubled the amount of the original judgment.

6. As a result of a bankruptcy petition filed by defendant-appellant, that motion was placed on the inactive list pending the bankruptcy. Thereafter, the U.S. Bankruptcy Court granted plaintiff's application to allow plaintiff to proceed.

7. On August 30, 1996, plaintiff's attorney wrote a letter to Judge Parker which included a copy of the previous motion dated April 9, 1996. Plaintiff's counsel requested that Judge Parker "please expeditiously sign the enclosed order and return the same to me in the enclosed postage-paid, self-addressed envelope." He did *not* refile or reserve the motion, but simply requested that an amended final judgment be entered.

8. On September 5, 1996, my office received a copy of that letter as sell as another motion also filed by the plaintiff.

9. On September 13, 1996, I wrote to Judge parker and caused said letter to be hand-delivered that dated indicating that I had received Mr. Rosenberg's letter and request for the entry of an amended final judgment without the filing of a formal motion. I objected to that and requested that the court require the plaintiff to file a formal motion in accordance with the Rules of Court. A copy of my September 13, 1996 letter to Judge Parker is attached hereto as Exhibit A.

10. Despite that letter, Judge Parker entered the "Amended Final Judgment" on September 12, 1996. This judgment awarded approximately double what had previously been awarded and did so without the oportunity of myself, as attorney for defendant-appellant, to have the ability to submit opposition and objection to it. It should be noted that the Amended Final Judgment was submitted not only without formal motion but also without any indication that it was being submitted under the "five day Rule".

11. In addition to the entry of this "Amended Final Judgment" without the consideration of objections by myself as attorney for defendant-appellant, the trial court entered, as part of that order, a double award of attorney's fees. That was awarded because the plaintiff included in its individual assessments amounts for attorney's fees. That made an award of a one-third contingent attorney fee to the plaintiff and against the defendant. Then, in addition to that award, the court added a provision for additional attorney's fees in the amount of $7,525.00 based upon an affidavit of services submitted by plaintiff's attorney. This award of double attorney's fees constitutes an unfair and unjust award contrary to the original holding of the first trial court judgment by judge D'Ambrosio on April 23, 1993.

12. I can state that the entry of this "Amended Final Judgment" by Judge Parker, without the filing of a formal motion by plaintiff as Judge Parker had directed in her written opinion, was grossly unfair and perpetrated a grave injustice against the defendant-appellant. While I believe the rest of the defendant-appellant. While I believe the rest of the defendant-appellant's case and arguments also have merit, it is clear, without a doubt whatsoever, that the award of double attorney's fees by the trial court in its Amended Final Judgment dated September 12, 1996 is completely contrary to law and was entered without proper notice and the ability to submit opposition to the plaintiff's request for the entry of said judgment.

13. I respectfully request that this Court grant the Petition for Certification in order provide a remedy for this aspect of the matter if for nothing else. It is unfortunate that the defendant-appellant has been caused to suffer this grave injustice. I respectfully request the consideration of this Court on her Petition for Certification.

14. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: December 31, 1997

s/
WILLIAM J. McGOVERN, III

AINE GLAVEY,
Pro Se Defendant
P.O. Box 1514
New York,
N.Y. 10009-0905

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HIGHLAND LAKES COUNTRY CLUB
and COMMUNITY ASSOCIATION,
Plaintiff,

*vs*

ANNE a/k/a AINE M. GLAVEY
Defendant.

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SUSSEX COUNTY

DOCKET NO. 10962481/89 &
W 23317/89

Civil Action
ORDER

THIS MATTER having been opened to the Court by Aine Glavey, pro se defendant on Notice of Motion, and the court have considered the Certification filed herein; and good cause having been shown;

IT IS on this day of October 25, 1996;

THIS MATTER has been adjudicated at length and the Amended Final judgment was entered properly. The judgment stands and may be enforced.

s/_____
Hon. Lorraine C. Parker
J.S.C.

AINE GLAVEY,
Pro Se Defendant
P.O. Box 1514New York,
N.Y. 10009-0905
Tel. (212) 473-4457

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HIGHLAND LAKES COUNTRY CLUB
and COMMUNITY ASSOCIATION,
Plaintiff,

*vs*

ANNE a/k/a AINE M. GLAVEY
Defendant.

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SUSSEX COUNTY

DOCKET NO. 10962481/89 &
W 23317/89

Civil Action
ORDER TO STAY ENFORCEMENT OF JUDGMENT

THIS MATTER having been opened to the Court by way of Notice of Motion, of AINE GLAVEY, and on notice to Mr. Sol Rosenberg, attorney for the Plaintiffs, to Stay the Enforcement of the Judgment, entered on September 12, 1996.

IT IS ON THIS 23 DAY OF December 1996, hereby

ORDERED:

A copy of this Denied Order shall be served on the Plaintiff within 7 days from the date hereoff.

Defendant shows no meritorious grounds for appeal

s/_____

Lorraine C. Parker, J.S.C.

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED:

AINE GLAVEY,
P. O. Box 1514
New York,
N.Y. 10009-8905

May 19, 1997.

Mr. Emille R. Cox, Clerk
Appellate Division
Superior Court of New Jersey
Hughes Justice Complex
CN-006
Trenton, New Jersey 08625

Re: Highland Lakes Country Club &
Community Ass. V. Anne, a.k.a. Aine M. Glavey
Docket No. A-006812-9513

Dear Mr. Cox,

I refer to the Plaintiff-respondent's recent "Affidavit in Opposition to Defendant-Appellant's Motion for Post Judgment Discovery" dated May 2, 1997.

I have been overseas regarding my work and only, in the last couple of days, had an opportunity to read the Opposition papers. I wish to draw your attention to the fact that the Motion papers are incomplete, in that they are missing Exhibits E and F of Mr. Rosenberg's Certification. I spoke this day to Ms. Gambacorta, who is the Case Manager, and she has

also informed me that they were not attached to the papers sent to the Appellate Division.

Firstly, it is imperative for the Court to have those Exhibits, in deciding the Motion, and also extremely important for my own information.

At this time, I would ask that Mr. Rosenberg or Mr. Vanecek immediately send Exhibits E and F to the Court and to myself, the Defendant-Appellant in this matter,

Thank you for your attention to this matter.

Very truly yours,

s/_____
Aine Glavey

cc: Mr. Rosenberg, 336 Clifton Avenue, P. O. 1325, Clifton, NJ 07015-9975
Mr. Joseph J. Vanecek, Gateway 80 Office Park, 30 Galesi Drive, Wayne, New Jersey 07470

BEST AVAILABLE COPY

ORDER DATE 10/01/96

RE: Highland Lakes Country Club V Anne Glovey

No.051503

DOCKET NO. W 23317-89 SSX

| | |
|---|---|
| PRINCIPAL OF TRUST | $ 15,848.91 |
| INTEREST | 2,423.07 |
| NET AMOUNT OF CHECK | $ 18,271.98 |

ATTACHED CHECK IS IN COMPLIANCE WITH ORDER AS STATED ABOVE. PLEASE DETACH BEFORE PRESENTING

SUPERIOR COURT OF NEW JERSEY—TRUST FUNDS No051503

TRENTON, N.J. 10-22 1996

PAY $ 18,271.98

TO THE ORDER OF

Sal Rosenberg, P.A. Trust Account
Attorney for Highland Lakes Country Club
and Community Association

New Jersey National Bank
Trenton, N. J.

⑈051503⑈ ⑆031200730⑆ 0980368⑈

Ospideal Cholaiste na hOllscoile Gaillimh
UNIVERSITY COLLEGE HOSPITAL,
GALWAY IRELAND

Telephone (091) 52422 Fax (091) 527197

CARDIOLOGY DEPARTMENT

Dr. Kieran M. Daly,
M.B., D.C.H., F.R.C.P.I.F.E.S.C.
Consultant Cardiologist/Lecturer in Medicine

KD/PP/RH343915

15th December 1997

TO WHOM IT MAY CONCERN

Dear Sir/Madam,

Re: Ms Aine Glavey, 18 Oakley Cresent,
Highfield Park, Galway

ADMITTED: 12/07/1997 DISCHARGE: 14/07/1997

This lady presented on the above date with a 24 hour history of palpitations associated with hausea, weakness and vomiting. When sen in the A & E department she was in atrial fibrillation but associated with vaso-vagal bradycardia she reverted spontaneously to sinus rhythm. Subsequent investigations including echocardiography were normal.

The diagnosis was paroxysmal atrial fibrillation likely secondary to a viral infection and she was discharged on no therapy and a medical report.

Yours sincerely,

s/

DR. KIERAN DALY F.R.C.P. I, F.E.S.C.
Consultant Cardiologist/Lecturer in Medicine

*ORDER ON MOTION*

HIGHLAND LAKES COUNTRY CLUB &
COMMUNITY ASSOCIATION

vs.

ANNE A/K/A AINE M. GLAVEY

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-006812-95T3
MOTION NO. M-007079-96
BEFORE PART: R
JUDGE(S): LONG
WECKER

MOTION FILED: JUNE 27, 1997
ANSWER(S) FILED: JULY 07, 1997

BY: AINE M. GLAVEY
BY: HIGHLAND LAKES COUNTRY CLUB

SUBMITTED TO COURT: JULY 28, 1997

*O R D E R*

THIS MATTERHAVING BEEN DULY PRESENTED TO THE COURT, IT IS ON THIS 29 day of July 1997, hereby ordered as follows:

| GRANTED | DENIED | OTHER |
|---|---|---|
| (X) | (X) | (X) |

MOTION BY APPELLANT
-TO SUPPLEMENT THE RECORD
-TO EXTEND TIME TO FILE APPELLANT BRIEF

SUPPLEMENTAL:

The motion by appellant to supplement the record is denied. Her brief is to be filed by August 11, 1997 or the appeal will be dismissed *sua sponte* by the court.

I hereby certify that the
foregoing is a true copy of the
original on file in my office.

Clerk

FOR THE COURT:

s/
VIRGINIA LONG P.J.A.D.

Received
Appellate Division
July 30, 1997

Filed
Appellate Division
July 30, 1997

(LETTERHEAD OF THE INSTITUTE FOR URBAN FAMILY HEALTH)

December 19, 1997

To Whom It May Concern:

Ms. Aine Glavey was very ill during the months of July and August, 1997. I saw her on August 13, 1997 during her illness and recommended rest and recuperation after her illness. She was in no way fit to write any legal briefs.

If you have any questions or need additional information, please call me at 212-924-7744.

Sincerely,

s/_____
Linda Prine, MD
Sidney Hillman Family Practice

(LETTERHEAD OF DELTA AIR LINES)

**Internal Memorandum**

Date: September 22,1997

**To:** Whom it may concern

**From:** Alan R. Winters, Supervisor, In-Freight Service - NYC

**Subject:** MS. AINE GLAVEY, FLIGHT ATTENDANT- NYC

This letter is to verify that Ms. Aine Glavey was ill during the month of July and August 1997. As a result Ms. Glavey had to return to the training base for Requalification.

Sincerely,

s/_____
Alan R. Winters
Supervisor, In-Flight Service - NYC

(LETTERHEAD OF DELTA AIR LINES)

**Internal Memorandum**

**Date**: December 16, 1997

**To:** Whom it May Concern

**From:** Alan R. Winters, Supervisor -In-Flight Service-NYC

**Subject:** FLIGHT ATTENDANT AINE GLAVEY, EN 569154

Following Ms. Glavey's illness in the months of July and August 1997, she was available to return to work on September 1, 1997.

A medical certificate was not required by Delta Air Lines for the month of August as Ms. Glavey was on vacation.

Sincerely,

s/_____
Alan R. Winters
Supervisor, In-Flight Service - NYC

cc: personal file

# ORDER ON MOTION

HIGHLAND LAKES COUNTRY CLUB
COMMUNITY ASSOCIATION
VS
ANNE A/K/A AINE M. GLAVEY

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-006812-95T3
MOTION NO. M-008207-96
BEFORE PART: R
JUDGE (S): LONG WECKER

Motion filed: August 12, 1997 By:Aine M. Glavey
Answer(s) filed: August 22, 1997 By: Highland Lakes Country Club.

Submitted To Court: September 08, 1997

## ORDER

This matter having been duly presented to the Court, it is on this 11th day of September 1997 hereby ORDERED as follows:

| Motion by Appellant | Granted | Denied | Other |
|---|---|---|---|
| | ( ) | ( x ) | ( x ) |

–To extend time to file Appellant Brief

–For Reconsideration

Supplemental:
The appeal is dismissed

For the Court:

SSX W-22317-89

Virginia Long P.J.A.D.

(LETTERHEAD OF DELTA AIR LINES)

Date: 2-4-98

**To:** *Aine Glavey*

**Employee #:** 569154

**Sen/Dept.:** JFK/610

**From:** Supervisor - Payroll Accounting.

**Subject:** Wage Assignment Notification

The ORDER TO WITHHOLD specified below has issued against the payment of your wages.

**Type of assignment** :
Garnishment x Tax Levy__ Child Support___
Bankruptcy___

**Judgment Amount**: *$18,027.56* Case No.: *W23317-89*

**Plaintiff:** *Highland Lakes Country Club*

**Court**: *Superior Court of New Jersey*

**Attorney**: *Sol Rosenberg*

**Amount/Percentage to be Deducted**: *25% of net*

**Remit To:** *Highland Lakes Country Club*

Effective with the *2-15-98* payday, Delta will make the

required deduction each pay period and remit to the respective recipient (according to the withholding order) until the ORDER TO WITHHOLD is either satisfied or released. In either case, Payroll Accounting, Dept. 331, ATG, must receive the appropriate legal documentation from the issuing agency before such release or cancellation is honored.

QUESTIONS OR ADDITIONAL INFORMATION REGARDING THE ORDER SHOULD BE DIRECTED TO THE COURT OR ISSUING AUTHORITY.

If a Court Order release has been issued on the case referenced above, please forward a copy of such release to Payroll Accounting, Dept. 331, ATG immediately.

S/
T.E. Mitchell